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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

The Telephone Consumer  
Protection Act of 1991

CC Docket No. 92-90

TO: THE COMMISSION

REPLY COMMENTS OF INDEPENDENT  
TELECOMMUNICATIONS NETWORK, INC.

Independent Telecommunications Network, Inc.  
("ITN") hereby submits these Reply Comments in response to  
the Notice of Proposed Rulemaking in the above caption  
proceeding (the "Notice").

I. BACKGROUND.

In its May 26, 1992 Comments, ITN explained that  
the existing national Line Information Database ("LIDB")  
system is an available, technologically-advanced platform  
through which the objectives of the Telephone Consumer  
Protection Act of 1991 (the "Act") can be achieved. As ITN  
explained, the national LIDB system can be utilized for pre-  
screening of both live operator and auto-dialed commercial  
telephone solicitations. In ITN's view, the consumer choice  
and privacy objectives of the Act can be best achieved  
through the "blocking" of unwanted commercial telephone  
solicitations through the use of the national LIDB system.

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Mechanically the LIDB screening process is accomplished by requiring that the telemarketer screen its commercial telephone solicitations on a "per call" basis, by sending a "query" regarding the prospective customer's line number to an SS7 service provider for pre-screening against the appropriate LIDB (prior to initiating a commercial solicitation call). The telemarketer's auto-dialer or other CPU-based dialer can be programed to transmit queries (i) individually for screening immediately prior to each telephone call; or (ii) collectively in a group of prospective customer line numbers (a "lead list") for batch processing against the LIDB system.

If a national database is the best means for implementing the objectives of the Act, as many commenters believe, the existing LIDB system is the most economical and effective way to implement this system. This system (i) can be implemented more quickly than any alternative system because the infrastructure is already in place; (ii) imposes minimal costs on the telemarketing industry while preserving its markets (a charge of less than \$.06 per query can be anticipated); (iii) avoids the creation of redundant databases containing line information on the same telephone subscribers; and (iv) maximizes the potential for expanding consumer choice because of the flexibility and adaptability of the LIDB system.

II. THE CONCERNS EXPRESSED BY COMMENTERS REGARDING THE FEASIBILITY OF A NATIONAL DATABASE SYSTEM WOULD BE ADDRESSED BY UTILIZING THE NATIONAL LIDB SYSTEM FOR THE SCREENING OF COMMERCIAL TELEPHONE SOLICITATIONS.

A. The LIDB System Is Ideally Suited For Pre-screening of Commercial Telephone Solicitations

Concerns have been expressed regarding the possible difficulties for the consumer in utilizing national or regional databases for the blocking of commercial solicitations.<sup>1</sup> It has been asserted that the bureaucratic procedures necessary for system enrollment and data entry could be a substantial burden on consumers.<sup>2</sup>

As ITN indicated in its comments, in utilizing the national LIDB system, the entities providing the pre-screening of commercial solicitations would be the SS7 network service providers and the SS7 LIDB operators. The equipment and infrastructure for the LIDB system has been deployed and is currently in operation. The network interconnections, the databases, and the basic contractual arrangements for query transport and validation are all currently in place.

Additional data entry is required in order to include in the LIDB system the data on customer acceptance or rejection of commercial solicitations. However, because the data stored in the LIDB system is currently updated on a daily basis by the local exchange carriers ("LECs") and the

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<sup>1</sup> See comments of Direct Marketing Association, at 24.

<sup>2</sup> Id.

other database providers who maintain the LIDBs, the input of the commercial solicitation screening data, and its frequent updating, would require little, if any, change in the standard LIDB provisioning and maintenance procedures currently in place.

It has even been asserted that a national regional database is doomed to failure because "it is utterly impossible to obtain and update reliably a list based only upon telephone numbers."<sup>3</sup> This may come of something of a surprise to the LIDB operators nationwide who today utilize the LIDB system for billed number screening and calling card validation. The necessity for frequent updating of the LIDB information for these other applications, and the information available to the LIDB operators regarding the termination or reassignment of telephone numbers, would readily facilitate the updating of information regarding the customer's commercial solicitation preferences. There are also substantial economies associated with updating this commercial solicitation information contemporaneously with the updating of information utilized for other applications.

B. The National LIDB System Will Readily Adapt Itself For Use By Small Telemarketing Companies or Individual Telemarketers

Several commenters have asserted that the national database system will be unworkable or difficult to utilize for individual telemarketers, or small telemarketing

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<sup>3</sup> See Comments of Direct Marketing Association at 22.

companies.<sup>4</sup> As stated above, the LIDB system can pre-screen commercial solicitations on either a "per query" basis, or on a batch-processed basis. In addition, dial-up procedures can be implemented which would enable individual telemarketers to access customer commercial solicitation preferences through the use of a touch tone phone.

If the LIDB system were implemented for commercial solicitation pre-screening, organizations with large widely dispersed sales forces (e.g., door-to-door sales, stock brokers), would in all likelihood establish centralized telemarketing service centers. A salesperson would call into the telemarketing service center with a "lead list" of prospective customer line numbers, and this "lead list" would be batch-processed by the telemarketing service center against the LIDB system, with the results transmitted to the salesperson.

With respect to small telemarketing companies or individual telemarketers, either dial-up procedures or batch processing of queries is likely to be offered by the LIDB operators themselves or by third parties (if there is unmet demand). In effect, the marketplace itself will pool the resources of individual, unaffiliated telemarketers to enable these individuals to utilize the equipment necessary to pre-screen prospective customers against the LIDBs.

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<sup>4</sup> See Comments of Direct Marketing Association at 25; Comments of Mary Kay Cosmetics, Inc. at 1.

C. The Costs Associated With Maintaining Commercial Solicitation Preferences on The National LIDB System Would Be Fully Recovered Through The Charges Assessed To The Telemarketers For Accessing The LIDBs.

The costs associated with maintaining "do not call" lists have been characterized by some as an unreasonable burden for the LECs.<sup>5</sup> Under ITN's proposal, however, the cost to LECs and other LIDB operators would be fully recovered through the charges assessed to the telemarketers for accessing the LIDBs.

In ITN's view, the national LIDB system should be utilized for the pre-screening of commercial solicitations only if the costs associated with maintaining this additional information on the LIDB can be fully recovered from the telemarketers through "per query" charges. As ITN indicated in its Comments, there are substantial economies of scale associated with utilizing the LIDB system for commercial solicitation screening. The LECs and other LIDB operators should be able to recover a portion of the capital costs associated with the LIDB system through this additional service offering, and should experience a reduction in their costs on a per query basis.

Other commenters have agreed that a national database can be operated profitably by funding such a database through charges assessed to the telemarketers.<sup>6</sup> There is no reason that the costs associated with utilizing

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<sup>5</sup> See Comments of the Nynex Telephone Companies, at 19.

<sup>6</sup> See Comments of Lejeune Associates of Florida, at 20.

the national LIDB system cannot be fully recovered through the charges assessed to the telemarketers, particularly in light of the fact that this system will utilize an existing infrastructure and database platform to provide the service.

D. Use Of The National LIDB System Places No Burden On Consumers.

Some commenters have argued that implementing any system of network-based commercial solicitation screening would place an unreasonable burden on consumers.<sup>7</sup> A substantial benefit of utilizing the national LIDB system is that it is a network-based system which, in fact, imposes no burden on consumers. Consumers are not required to purchase additional equipment or additional phone service features in order to screen commercial solicitations.

Commenters have asserted that cost recovery mechanisms are also problematical with network-based solutions.<sup>8</sup> In fact, the cost-recovery methods are already in place with respect to the LIDB system. The cost recovery methods are the same as those utilized for Billed Number Screening and other applications: with the LIDB system, the SS7 service provider bills the telemarketer, on a per query basis, for each query transmitted to the LIDBs (whether transmitted on a per call, or a batch-processed basis).

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<sup>7</sup> Id. at 26.

<sup>8</sup> Id. at 27.

**III. THE SUBSTANTIAL BENEFIT TO THE TELEMARKETER OF AVOIDING CALLS TO CUSTOMERS WHO ARE NOT INTERESTED IN COMMERCIAL SOLICITATIONS SHOULD MORE THAN COMPENSATE FOR THE MINIMAL CHARGES ASSOCIATED WITH PRE-SCREENING CUSTOMERS AGAINST THE LIDB SYSTEM.**

As ITN indicated in its Comments, ITN would anticipate that the costs associated with screening a commercial solicitation query against the LIDB system would be less than \$.06 per query. Because the telemarketer will receive the information on customer preferences prior to initiating the call, the telemarketer will avoid tying up its equipment and operator time with telephone solicitations to unreceptive customers. In all probability the savings in reduced dialing time, reduced equipment usage, and reduced live operator time as a result of avoiding these calls to unreceptive customers should more than off-set the nominal per query charges.<sup>9</sup>

**IV. THE NATIONAL LIDB SYSTEM IS A TECHNOLOGICALLY-ADVANCED, ADAPTABLE PLATFORM WHICH IS BEST EQUIPPED TO ADDRESS THE PRIVACY CONCERNS AND OTHER OBJECTIVES OF THE ACT.**

Consumer Action has proposed that the Commission authorize a "National Telemarketing Database", directed by a board made up of industry and consumer representatives. Telemarketers would be required to submit lists of prospective customers to this database. Customers with "do not call" instructions would be deleted from the lists submitted by the telemarketer.<sup>10</sup>

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<sup>9</sup> See Consumer Action's Opening Comments, at 11.

<sup>10</sup> Id. at 2.



The Consumer Action proposal would create an enormous and unnecessary bureaucracy associated with administration of this national database. This approach would utilize paper lists which are more invasive of the privacy rights of telephone customers than the LIDB system (which would prohibit the generation of any permanent list containing customer preferences and would require validation on a per-call basis).

Most importantly, requiring that a physical list be presented to a national telemarketing bureaucracy, while the telemarketer awaits its modification and return, is a primitive approach when a sophisticated computer-based solution is available and in place today. As ITN stated in its Comments:<sup>11</sup>

"The LIDBs currently in place contain "fields" which can be utilized to enter data regarding customer preferences with respect to commercial telephone solicitations. ...incorporating this information in the LIDB requires some minimal data entry by the LIDB operator, but little ...alteration of the existing LIDB software. No modification of the existing equipment deployment scheme by the network service providers or LIDB operators would be required for this system, except to the extent that additional equipment may be necessary to satisfy capacity requirements.

The personal computer or other computer-based predictive or auto dialers used by the telemarketing industry typically have an X.25 protocol port running from the central processing unit. Links

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<sup>11</sup> See ITN Comments at 3, 4. In fact, the LIDB system could be adapted to incorporate information on customer specific time-of-day restrictions, and could eventually be modified to accommodate the screening of some, but not all, categories of calls, contrary to the assertion of some commenters. See Comments of Direct Marketing Association at 24.

can be provisioned from these X.25 ports to an SS7 service provider's facilities."

V. A NATIONAL DATABASE SYSTEM IS ALREADY IN PLACE. AND WORKING, TODAY.

Although many of the Commenters appear to be unaware of this fact, there is in place today a national database system, which is deployed on a decentralized basis through the various LIDBs, and which contains line information on every residential telephone subscriber (and many business subscribers) in the North American Numbering Plan. All that is required to utilize this system for commercial solicitation screening is to input data on customer preferences with respect to commercial telephone solicitations, and implement procedures for accessing that data.

Creating a separate national database containing line information on these same telephone customers is inefficient and unnecessary. The network infrastructure and database platform are already in place for implementing the objectives of the Act.

Respectfully submitted,

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